IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 2368 of 2007()

CRMP.2555/2007 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM
CRIME NO8/07 OF ERNAKULAM TOWN SOUTH POLICE STATION

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PETITIONER: ACCUSED NO.5:

ANIL KUMAR T.K. @ VISANJI T.K. @ ALEX @ OMANAKUTTAN @ ARAVINDAN, S/O. KARUNAKARAN @ ALEX @ ARAVINDAN, RESIDING AT THE HOUSE OF NARAYANAN, AMRITHA KRIPA, NEAR ST.MICHAEL SCHOOL, THATHAMPILLI KARA, ALAPPUZHA.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HONOURABLE HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTED BY SUB INSPECTOR OF POLICE,
PANTHALAM POLICE STATION.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2368 OF 2007

Dated this the 25th day of July, 2007

ORDER

The petitioner is the 5th accused in a crime registered under Secs.406 and 420 read with Sec.34 of the IPC. He was arrested and continues in custody from 7/7/07. He applied for bail before the learned Additional Chief Judicial Magistrate, Ernakulam. The learned additional C.J.M. granted bail subject to conditions. The petitioner is aggrieved by the condition that he must execute a bond with two solvent sureties. In fact, he is aggrieved by the condition that such sureties must be persons who posses PAN cards issued from the Income Tax Department. The learned counsel for the petitioner submits that because of the onerous nature of the condition imposed by the learned Additional C.J.M., the petitioner has not been able to avail of the benefit of the order of granting bail. He therefore languishes in custody even now, it is submitted.

2. I am certainly of opinion that the condition imposed is not just and fair. The courts imposing conditions must look at the plight of the ordinary members of the polity. How many persons in this country will be able to have willing sureties possessing PAN cards to help them to be bailed out. The courts cannot certainly be insensitive. I am, in these circumstances, satisfied that the said rigid condition imposed by the learned Additional C.J.M. deserves to be set aside. I need not specify what nature of satisfaction must be entertained by the learned Magistrate and on what document. I am of opinion that it will be sufficient if it is stated that the learned Magistrate can and must insist that the sureties are sufficient and solvent. The requisite satisfaction can be entertained on the production of any satisfactory document/material. Rigid insistence on sureties being PAN card holders is certainly not necessary.

3. This petition is accordingly allowed. The said condition is modified to the above extent.

Sd/-
(R. BASANT, JUDGE)

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//true copy// P.S. To Judge